

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for August 18, 2004 PLANNING COMMISSION MEETING

P.A.S.: Change of Zone #04042 - Signs

PROPOSAL: Text amendments to :

Zoning, Title 27 LMC;
Chapter 27.69.049 H-3 signs
Chapter 27.69.270 Other Permitted Signs

CONCLUSION: These amendments would make very limited and targeted changes to the sign ordinance to legalize the current Anderson Ford message center sign. This size message center is not justified, sets a very poor precedent to add larger signs in other locations and zoning districts, and in the case of the existing signs, adds to light pollution that will likely have a negative impact on the endangered Salt Creek Tiger Beetle. For these reasons it should be denied.

RECOMMENDATION:	Denial of the attached text
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HISTORY: The referenced sections of the zoning text have been in place since 1979.

ANALYSIS:

1. The applicant is requesting changes to the sign section for the H -3 District to allow a 240 square foot message center within 660 feet of an Interstate Highway. The reason for the request is to legalize an existing sign for Anderson Ford at North 27th and Interstate 80.
2. The applicant states a sign permit was issued for the existing sign in December 2000 and Building and Safety did not notify the applicant until a letter was sent on February 2004.
3. Building and Safety has indicated the permit was issued in error to a licensed sign contractor who should have known it was not a legal sign. After it was erected and discovered to be in error in 2001, Building and Safety did contact the sign contractor and the land owner to advise them the sign was not legal.
4. The City has received numerous complaints about the size, location and light levels of the existing sign. Several other businesses have asked if they can have a similar sign. Based on complaints, the letter of February 2004 was sent.

5. The current limit of 80 square foot of area for a sign that blinks and flashes has been part of the code since 1979 and is applied across the city except for the Downtown B-4 district.
6. Provision of this request for additional electronic signing raises the question of making the same opportunity available for other zoning districts.
7. Most of the Interstate interchanges for Lincoln (with the exception of the Waverly exit and the I -180 exit) have H-3 in place and could utilize this provision. Freeway interchanges are especially poor locations for motorists to be distracted by large changable messages.
8. Light pollution is a city wide issue but is much more sensitive in the area of the Salt Creek Tiger Beetle since it has been shown to be attracted to light. The existing sign is within one mile of, and visible from, existing known beetle habitat.
9. The City Attorney's office has suggested alternative language, and a draft Ordinance, if the City chooses to approve the text amendment.
10. The impact and potential impact of this change is such that the change of zone should be denied. The existing sign should be removed. An error by a building official does not legalize an action. After four years of use, it is now time to come into conformance with the code and the rest of the City.

Prepared by:

Mike DeKalb, AICP, 441-6370, mdekalb@ci.lincoln.ne.us
Planner
August 2, 2004

APPLICANT: Anderson Ford
2500 Wildcat Dr.
Lincoln, NE 68521
(402) 458 - 9800

CONTACT: W. Michael Morrow, Attorney
P.O. Box 83439
Lincoln, NE 68501
(402) 474 - 1731

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WATERMEIER & PHILLIPS, P.C.**

Attorneys at Law

A Limited Liability Organization

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WEBSITE: www.morrowpoppelaw.com

Location:

201 N. 8th Street, Suite 300
Lincoln, Nebraska 68508

Mailing Address:

P.O. Box 89439
Lincoln, Nebraska 68501-8439

JUN 25 2004

June 25, 2004

County/City Planning Department
County-City Building
555 S. 10th Street
Lincoln, NE 68508

HAND DELIVERED

Re: Applications to amend text of City Zoning Code

Dear Sir or Madam:

Please be formally advised that this firm represents R & D Investments, LLC, now known as RMA Investments, L.L.C. (the "Property Owner") and Anderson Ford (the "Applicant"). On behalf of the Property Owner and the Applicant, I am forwarding to you herewith the following:

1. Application to amend the text of 27.69.049(d) of the Lincoln Municipal Code.
2. Application to amend the text of 27.69.270 of the Lincoln Municipal Code.
3. Our firm's check made payable to the "City of Lincoln" in the amount of \$500.00, in order to cover the filing fees for the enclosed Applications.

Please note that the enclosed Applications are designed to amend the relevant portions of the text of the Lincoln Municipal Code for purposes of allowing the current sign that is located on the Anderson Ford Property at 2500 Wildcat Drive, Lincoln, Nebraska, to remain in place. Please also note that on December 8, 2000, the City's Building & Safety Department issued Permit #S0000733 for the sign that is currently located on the Anderson Ford Property (see Exhibit "1" to the enclosed Applications; and that it was not until February 26, 2004 that the City advised Anderson Ford that the current sign failed to comply with the provisions of 27.69.270 of the Lincoln Municipal Code (see Exhibit "2" to the enclosed Applications). Finally, please also note that simultaneously herewith copies of the enclosed Applications have been forwarded to the Mayor's Neighborhood Round Table (see attachment 3 to the enclosed Applications).

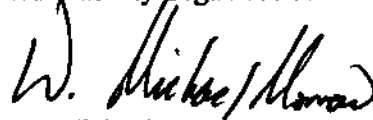
June 25, 2004
Page 2

Please direct all correspondence to the undersigned as the contact person for the Property Owner and the Applicant. If you have any questions regarding this matter please do not hesitate to contact me.

Very truly yours,

MORROW, POPPE, OTTE,
WATERMEIER & PHILLIPS, P.C.
A Limited Liability Organization

By:



W. Michael Morrow

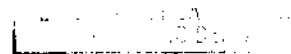
E-mail: wmm@morrowpoppelaw.com

WMM/pg

Enclosures

c: Mike Anderson
Mayor's Neighborhood Round Table

JUN 25 2004



**REQUESTED AMENDMENT TO
27.69.049(d)**

Applicant hereby requests that the following italicized language be added to 27.69.049(d) of the Lincoln Municipal Code, so that said Section 27.69.049(d) will read as follows:

(d) In addition to the foregoing, within 660 feet of the designated interstate, the on-premises pole sign may be eighty feet in height and 360 square feet in area is permitted when such sign is within fifty feet radius of main buildings. *In addition to the foregoing, the specific provisions of Section 27.69.270 shall not apply to a sign constructed in accordance with the provisions of this Section 27.69.049(d); provided, however, that the changing sign area shall not exceed 240 square feet of such sign area.*

**REQUESTED AMENDMENT TO
27.69.270**

Applicant hereby requests that the following italicized language be added to 27.69.270 of the Lincoln Municipal Code, so that said Section 27.69.270 will read as follows:

27.69.270 Other Permitted Signs; Nonresidential; Public Service Information.

In any nonresidential district, electronic changeable copy signs displaying the time, temperature, weather, or similar public service information shall be permitted. The sign area displaying such information may change, blink, flash, or have the appearance of movement; provided, *that except as provided in 27.69.049(d),* that the changing sign area shall not exceed eighty square feet of sign area. Such area shall be included as a part of the permitted signage for the premises on which it is located.

JUN 25 2004

**PURPOSE STATEMENT FOR
APPLICATION FOR CHANGE OF ZONE
TO 27.69.049(d)**

This Application is being submitted simultaneously with an Application to amend the provisions of 27.69.270 (this Application, and the Application to amend the text of 27.69.270 being hereinafter collectively referred to as the "Applications").

The purpose of the Applications is to amend the provisions of 27.69.049(d) and 27.69.270 of the Lincoln Municipal Code, so as to allow the changing sign area of a sign that is otherwise constructed in accordance with the provisions of 27.69.049(d) of the Lincoln Municipal Code to be increased from 80 square feet of sign area to 240 square feet of sign area.

REASONS:

1. 27.69.049(d) of the Lincoln Municipal Code governs the construction of on-premises pole signs located within an H-3 zoning district and within 660 feet of the interstate.
2. Applicant's existing pole sign meets all of the requirements of 27.69.049(d).
3. Applicant applied for a sign permit to construct the existing pole sign on Applicant's property. On December 8, 2000, the City issued to Applicant Sign Permit #S0000733 for purposes of allowing Applicant to construct the existing pole sign on Applicant's property (see attached Exhibit "1").
4. The existing pole sign was constructed on Applicant's property in the spring of 2000.
5. On February 26, 2004, the City forwarded to Applicant a Notice advising Applicant that the changing board area of Applicant's existing sign exceeded the 80 square feet of sign area allowed under 27.69.270 of the Lincoln Municipal Code (see attached Exhibit "2").
6. The limited nature of the Applications will only allow on-premises pole signs that otherwise meet all of the conditions of 27.69.049(d) of the Lincoln Municipal Code, to have an increased changing sign area on such sign.
7. The reason for the changes requested by the Applications is to bring the sign already constructed by Applicant in accordance with the Permit issued by the City (see Exhibit "1") into compliance with the City's zoning code.

Applicant has forwarded copies of the two Applications to the Mayor's Neighborhood Round Table (see attachment 3).

**PURPOSE STATEMENT FOR
APPLICATION FOR CHANGE OF ZONE
TO 27.69.270**

This Application is being submitted simultaneously with an Application to amend the provisions of 27.69.049(d) (this Application, and the Application to amend the text of 27.69.049(d) being hereinafter collectively referred to as the "Applications").

The purpose of the Applications is to amend the provisions of 27.69.049(d) and 27.69.270 of the Lincoln Municipal Code, so as to allow the changing sign area of a sign that is otherwise constructed in accordance with the provisions of 27.69.049(d) of the Lincoln Municipal Code to be increased from 80 square feet of sign area to 240 square feet of sign area.

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Applicant has forwarded copies of the two Applications to the Mayor's Neighborhood Round Table (see attachment 3).

Monday, March 08, 2004 3:37 PM

Mike Anderson 402-458-9892

03/05/2004 02:34 2003040403

TRICITY SIGN

Page 01

p.03

: CAPITOL SIGN COMPANY

PAY NO. : 1 402 455 2157

Jan. 15 2004 10:54PM P2

Hi-Kiso sign

Building & Safety Department
City of Lincoln - Lancaster County
Room 201, 555 S 10TH ST., Lincoln, NE 68508-3906
SIGN PERMIT
Inspection Line 441-8213
For Technical Questions,
Call Plan Reviewers at 441-7682 - 8:00 a.m. to 4:00 p.m.
Call Building Inspectors at 441-7081

OWNER ANDERSON FORD 12/5/2000
APPLICANT CAPITOL SIGN COMPANY 12/5/2000 Phone: 402-455-7446
3421 N 35TH CIR
LINCOLN NE
68504
SIGN CAPITOL SIGN COMPANY 12/5/2000 Phone: 402-455-7446
3421 N 35TH CIR
LINCOLN NE
68504
License: E0510

Permission is hereby granted to construct the following stationary sign as described per application and listed herein:

PERMIT #: 00000730
STATUS: ISSUED

APPLIED: 12/5/2000
APPROVED: 12/8/2000
ISSUED: 12/8/2000
FINALED:
TO EXPIRE:

JOB ADDRESS: 2800 WILDCAT DR L

LEGAL DESC: HIGH POINTE NORTH COMMERCIAL PARK ADD BLOCK 1 LOT 1
OWNER: ANDERSON FORD

WORK DESCRIPTION: H-POLE SIGN BUS: ANDERSON FORD 349 SQ FT 80" HGT
12' X 36' SIGN

zoning:	M-3	setbacks:	30'
Sign Size:	12' X 36'		
Sign Height:	80" HGT		
Total Area(SQ FT):	349 SQ FT		

TOTAL FEES: \$30.00

Type	Method	Description	Amount
		CURRENT PAYMENT:	.00
		TOTAL PAYMENT:	\$30.00
		BALANCE DUE:	\$0.00

ISSUED BY: DC

PRINT DATE: 11-08-2000

Exhibit "1"


CITY OF LINCOLN
NEBRASKA

Building and Safety Department
Mike Merwick, Director
555 South 16th Street
Room 203
Lincoln, Nebraska 68508

402-441-7521
Fax: 402-441-8214
bldgsafe@cl.lincoln.ne.us

LINCOLN
The Community of Opportunity

MAYOR COLEEN J. SENG

www.cl.lincoln.ne.us

February 26, 2004

Mike Anderson
Anderson Ford
2500 Wildcat Drive
Lincoln, NE 68521

Re: Electronic Changeable Copy Sign

Mr. Anderson

This Department has received numerous complaints regarding the electronic changeable copy sign located on your property. This pole sign was permitted under sign permit S0000735.

Section 27.69.270 of the Lincoln Municipal Code states as follows:

27.69.270 Other Permitted Signs; Nonresidential; Public Service Information.

In any nonresidential district, electronic changeable copy signs displaying the time, temperature, weather, or similar public service information shall be permitted. The sign area displaying such information may change, blink, flash, or have the appearance of movement; provided that the changing sign area shall not exceed eighty square feet of sign area. Such area shall be included as a part of the permitted signage for the premises on which it is located. (Ord. 16735 §31; February 13, 1995; prior Ord. 14613 §34; March 9, 1987).

A pole sign such as this is allowed 360 square feet of area. However, the electronic changeable copy area is only allowed to be 80 square feet. We are requesting you to reduce the electronic changeable copy area to allowed limits or remove the sign. Please contact me within 30 days with your written response on your intended course of action to comply with this ordinance. If you have any questions, you may call me at 441-6452.

Respectfully,



Charles A. Zimmerman, Manager

cc: Mike Merwick, Director, Building & Safety
Ann Harrell, Mayor's Office
Mike Petersen, Building & Safety
File

Exhibit "2"

INTER-DEPARTMENT COMMUNICATION

TO Mike DeKalb
DEPARTMENT Planning
ATTENTION
COPIES TO

DATE July 19, 2004
FROM Rick Peo 
DEPARTMENT City Law
SUBJECT CZ04042 - text amendment
27.69.049

If the text amendment goes through, I suggest that §27.69.049(d) be revised to read as follows:

(d) In addition to the foregoing, Notwithstanding the height and area restrictions in (a) and (c) above, an on-premises pole sign located within 660 feet of the designated interstate, the on-premises pole sign may be eighty feet in height and 360 square feet in area is permitted when such sign is within fifty feet radius of main buildings. If the on-premises pole sign includes electronic changeable copy, the changing sign area shall not exceed 240 square feet of such sign area.

Specifically, I believe the existing language "In addition to the foregoing" is ambiguous as to whether the pole sign is in addition to the pole signs authorized in (a) and (c) above or is only a height and area adjustment. My change is to ensure that (d) is only a height and area adjustment.

ERP/ce

04- Introduce:

ORDINANCE NO. _____

AN ORDINANCE amending Chapter 27.69 of the Lincoln Municipal Code relating to signs by amending Section 27.69.049 relating to permitted signs in the H-3 zoning district to clarify language and to allow on-premises pole signs located within 660 feet of the designated interstate to include electronic changeable copy up to 240 square feet in sign area; by amending Section 27.69.270 relating to other permitted signs in non-residential districts to allow an exception to the maximum changing sign area as provided in Section 27.69.049(d); and repealing Sections 27.69.049 and 27.69.270 of the Lincoln Municipal Code as hitherto existing.

BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

Section 1. That Section 27.69.049 of the Lincoln Municipal Code be amended to read as follows:

27.69.049 Permitted Signs; H-3 Zoning District.

In the H-3 zoning district, the specific regulations are as follows:

(a) One on-premises pole sign or one on-premises ground sign per business per frontage is permitted. Such signs shall be spaced a minimum of fifty feet apart along any street frontage. In those instances where only a single business is conducted on the premises and the premises has a frontage along any one street of 150 feet or more, it may have a maximum of two ground or pole signs as otherwise permitted in this section on any such frontage with a minimum spacing of 100 feet. If such sign is located in a required front yard, it shall not exceed fifty square feet of area, and a pole sign shall have a maximum height of twenty-five feet, and a ground sign shall have a

maximum height of eight feet. If such sign is located outside the required front yard, it may have a maximum area of 100 square feet and a maximum height of fifty feet. If such sign is a combination of the two signs of over 150 feet frontage, it may be increased to 150 square feet in area and forty-five feet in height; provided it is fifty feet from other premises.

(b) On-premises wall signs are permitted. The sign area of such wall signs per building facade shall not exceed thirty percent coverage of the wall face, or a total of 500 square feet, whichever is lesser. Any marquee sign shall not exceed three feet in height or the height or vertical thickness of the marquee, whichever is greater. One pedestrian marquee sign per entrance not exceeding one foot in height and six square feet in area is permitted.

(c) Where more than one business is located on the lot, the on-premises signs permitted in the required front yard, pursuant to (a) above may be combined. If the combined sign is located in a required front yard, it shall not exceed fifty square feet in area. If the combined sign is a pole sign, it shall have a maximum height of twenty-five feet, and if the combined sign is a ground sign, it shall have a maximum height of eight feet. If the combined sign is located outside the required front yard, it may have a maximum area of 150 square feet. If the combined sign is a pole sign, it shall be spaced a minimum of seventy-five feet from an adjoining premise.

(d) ~~In addition to the foregoing, Notwithstanding the height and area restrictions in (a) and (c) above, an on-premises pole sign located~~ within 660 feet of the designated interstate, ~~the on-premises pole sign~~ may be eighty feet in height and 360 square feet in area ~~is permitted~~ when such sign is within fifty feet radius of main buildings. Said on-premises pole sign may include electronic changeable copy, provided, however, the changing sign area shall not exceed 240 square feet of such sign area.

(e) One off-premises sign not exceeding 700 square feet in area and forty-five feet in height is

permitted subject to the provisions of Section 27.690.035.

(f) In lieu of the sign permitted in subsection (a) above, one on-premises projecting sign is permitted. Said projecting sign may project from a building a maximum of six feet six inches and may project into a required front yard, but it shall not extend above the roof line or top of a cornice wall. Such sign shall have a minimum ground clearance of eight feet above the walk or grade below and may project over the public right-of-way when the building is erected adjacent to the front property line. The maximum area of such sign shall be 100 square feet.

Section 2. That Section 27.69.270 of the Lincoln Municipal Code be amended to read as follows:

27.69.270 Other Permitted Signs; Nonresidential; Public Service Information.

In any nonresidential district, electronic changeable copy signs displaying the time, temperature, weather, or similar public service information shall be permitted. The sign area displaying such information may change, blink, flash, or have the appearance of movement; provided that the changing sign area shall not exceed eighty square feet of sign area, except as provided in Section 27.69.049(d) . Such area shall be included as a part of the permitted signage for the premises on which it is located.

Section 3. That Sections 27.69.049 and 27.69.270 of the Lincoln Municipal Code as hitherto existing be and the same are hereby repealed.

Section 4. That this ordinance shall take effect and be in force from and after its passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ____ day of _____, 2004:

Mayor